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MIDLAND CREDIT MANAGEMENT, INC.
7

8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10
11 CAMILO MARQUEZ,

12 Plaintiff,

13 v.

14 MIDLAND CREDIT
MANAGEMENT, INC.,

15 Defendant.
16

Case No. '15CV1174 AJB DHB

**NOTICE OF REMOVAL OF
ACTION UNDER 28 U.S.C. § 1441(a)**

State Court Complaint filed 04/21/15

17
18 TO THE CLERK OF THE COURT:

19 PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1441(a) and 1331,
20 Defendant Midland Credit Management, Inc. ("Midland") hereby removes this
21 action from the Superior Court of the State of California for the County of San
22 Diego, Case No. 37-2015-00321227-SC-SC-CTL (the "State Case") to the United
23 States District Court for the Southern District of California. The grounds for this
24 removal are that plaintiff's complaint raises federal question jurisdiction based on
25 the facts and theory alleged.

26 **FACTUAL SUMMARY**

27 1. On April 21, 2015, plaintiff Camilo Marquez commenced the State
28 Case alleging that Midland "[r]efused to remove negative credit reporting," which

1 plaintiff appears to allege resulted in his being “unable to refinance [his] home” and
2 caused him to lose money. (Small Claims Complaint, page 2, ¶ 3.a.)

3 2. Plaintiff expressly bases his claim on Midland’s alleged refusal to
4 remove information from his credit report, which falls squarely within the
5 provisions of the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.* (“FCRA”).
6 “Through the FCRA, Congress has elected to establish a scheme of uniform
7 requirements regulating the use, collection and sharing of consumer credit
8 information. In order to maintain this uniformity, Congress included express
9 preemption clauses in the FCRA relating to various aspects of consumer credit
10 reporting.” *Buraye v. Equifax*, 625 F. Supp. 2d 894, 900 (C.D. Cal. 2008) (quoting
11 *Roybal v. Equifax*, 405 F. Supp. 2d 1177, 1181 (E.D. Cal. 2005)).

12 3. Plaintiff’s claim, which expressly deals with the process of handling
13 consumer disputes regarding credit reporting information in that Plaintiff alleges
14 Midland “refused to remove negative credit reporting,” falls squarely within the
15 provisions of 15 U.S.C.A. § 1681s-2(b). That statute requires “that a furnisher
16 conduct a reasonable investigation of a consumer dispute” and “requires a creditor,
17 upon receiving notice of [a] dispute, to both report the results of the investigation
18 and, if the investigation finds that the information is incomplete or inaccurate, report
19 those results to the [credit reporting agencies].” *Gorman v. Wolpoff & Abramson,*
20 *LLP*, 584 F.3d 1147, 1162 (9th Cir. 2009) (emphasis in original) (quoting § 1681s-
21 2(b)(1)). Section 1681t(b) contains an express preemption provision, which
22 provides that “[n]o requirement or prohibition may be imposed under the laws of
23 any State with respect to any subject matter regulated under ... section 1681s-2 of
24 this title, relating to the responsibilities of persons who furnish information to
25 consumer reporting agencies,” subject to certain exceptions. 15 U.S.C. §
26 1681t(b)(1)(F). No exception applies to the process of handling a consumer dispute.
27 As such, Plaintiff’s claim is necessarily premised on and arises under federal law.

28 4. Midland was served with the summons and complaint on April 27,

1 2015.

2 5. This notice is therefore timely pursuant to 28 U.S.C. § 1446(b) because
3 it is being filed within thirty days after service of the complaint.

4 **JURISDICTION**

5 6. Removal is proper pursuant to 28 U.S.C. section 1441(a), which
6 entitles a defendant to remove “any civil action brought in a State court of which the
7 district courts of the United States have original jurisdiction,” and 28 U.S.C. section
8 1331, which gives district courts “original jurisdiction of all civil actions arising
9 under the Constitution, laws, or treaties of the United States.” The district court has
10 supplemental jurisdiction over the alleged state law claim because it is so related to
11 the claim over which the district court has original jurisdiction that it “form[s] part
12 of the same case or controversy.” 28 U.S.C. § 1367(a).

13 7. Pursuant to 28 U.S.C. section 1446(a), Midland attaches as **Exhibit 1** a
14 copy of all process, pleadings, and orders in the State Court action.

15
16
17 DATED: May 27, 2015

SOLOMON WARD SEIDENWURM &
SMITH, LLP

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19
20 By: /s/ Leah S. Strickland

21 THOMAS F. LANDER

22 LEAH S. STRICKLAND

23 Attorneys for Defendant

24 MIDLAND CREDIT MANAGEMENT,
25 INC.
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